

405 KAR 30:150. Oil shale records open to public inspection; confidential nature of certain data.

RELATES TO: KRS 61.870-61.884, 350.600

STATUTORY AUTHORITY: KRS 61.870-61.884, 224.033, 224.035, 224.036, 350.028, 350.050, 350.600

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.600 requires the Natural Resources and Environmental Protection Cabinet to develop administrative regulations for oil shale operations to minimize and prevent their adverse effects on the citizens and the environment of the Commonwealth. This administrative regulation sets forth records open to public inspection and methods for determining the confidential nature of certain data.

Section 1. Designation of Records. Any record or other information furnished to or obtained by the cabinet relating to the prospecting, exploration, testing, development, mining, processing and reclamation of oil shale operations shall be open to reasonable public inspection except for any record or information which constitutes a trade secret or confidential business information and is designated as such by the cabinet upon a satisfactory showing by the owner of such record.

Section 2. Access to Public Records. (1) Upon written application to the cabinet, any person may, after adequately identifying the records, inspect and make abstracts and memoranda of the contents of any public record except those designated to be a trade secret or confidential business information. Copies of the proper written material shall be furnished to any person requesting them upon payment of a fee; copies of photographs, maps and other nonwritten material and records stored in the computer files or libraries if not of a confidential nature or a trade secret shall be furnished to any person requesting them upon payment of a fee equal to the actual cost to the cabinet of producing the copies. The fee shall be collected before the copies are handed or sent to the person requesting them.

(2) The inspection of public records of the cabinet shall in all cases be made in the presence of an employee of the cabinet on cabinet premises during the usual office hours.

Section 3. Procedure for Designation that a Record Constitutes a Trade Secret or Confidential Business Information. (1) Any owner of records furnished to or obtained by the cabinet may assert a business confidentiality claim or any other claim applicable under KRS 61.870 et seq. Allegedly confidential portions or documents should be clearly identified by the owner and may be submitted separately to facilitate identification and handling. All assertions of a claim of confidentiality shall be made in writing to the appropriate department commissioner.

(2) No record or information designated by the owner to be either a trade secret or confidential business information shall be released to the public, to the federal government or to any other agency, cabinet or officer of the Commonwealth without providing the owner fifteen (15) days written notice of the proposed cabinet action.

Section 4. Cabinet Reports, Analyses or Summaries. Nothing herein shall be construed to prevent the use of records or information by the cabinet in compiling or publishing reports, analyses or summaries relating to general conditions in the environment, nor shall anything herein prevent the use of any record or other information for the purposes of administration or enforcement of any federal, state or local law. No such report, analyses, summary or use shall directly or indirectly publicly reveal information otherwise confidential under this section. (8 Ky.R. 106; eff. 3-1-1982; Crt eff. 7-3-2018.)